IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 05.01.2007

CORAM

The Honourable Mr. Justice K.N.BASHA

Crl.O.P.No.7626 of 2006,
Crl.M.P.No.1989 of 2006 and
Crl.M.P.No.4536 of 2006

K. Krishnasingh .. Petitioner/1st Accused

vs.

State : rep. by its
Inspector of Police,
Prohibition & Enforcement Wing,
Krishnagiri District.
(Crime No.993 of 1986) .. Respondent/Complainant

* * *

Prayer : Criminal Original Petition filed under Section 482 of Criminal Procedure Code to call for the records of the P.R.C.No.16 of 2000 on the file of the District Munsif cum Judicial Magistrate, Poochampalli, and quash the same.

* * *

For Petitioner : Mr.R.Gopinath

For Respondent : Mr.P.Kumaresan,
Additional Public Prosecutor

O R D E R

The learned counsel for the petitioner submitted that the petitioner has come forward with this petition to quash the proceedings in P.R.C.No.16 of 2000 on the file of the Judicial Magistrate, Poochampalli.

2. It is submitted by the learned counsel for the petitioner that a case was registered against the petitioner for the alleged offences under Section 4(1)(A) r/w 7(1)(c) and 14 (A) of the Tamil Nadu Prohibition Act and the First Information Report was registered as early as on 04.09.1986 and after completion of investigation the final report was filed in P.R.C.No.15 of 1993 and

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later the same renumbered as P.R.C.No.16 of 2000. It is also submitted by the learned counsel for the petitioner that till date even the charge is not framed against the accused, the petitioner herein. The learned counsel further submitted that the case was periodically adjourned right from the year 1994 onwards and it was lastly adjourned on 18.11.2004. It is also submitted by the learned counsel that none of the records relates to the case is available before the Court and P.R.C. Case was adjourned periodically from the year 1994 onwards and there is absolutely no progress. The learned counsel further submitted that the petitioner has put into great hardship and irreparable loss and he has made to appear before the Court periodically without any progress in this case. Therefore, it is contended by the learned counsel for the petitioner that the entire proceedings pending in P.R.C.No.16 of 2000 is liable to be quashed.

3. The learned counsel for the petitioner also placed reliance on the decision of the Hon'ble Supreme Court of India in MOTI LAL SARAF V. STATE OF JAMMU & KASHMIR reported in IV (2006) CCR 141 (SC) for the proposition that long pendency of case without any progress is liable to be quashed.

4. Heard the learned Additional Public Prosecutor. The learned Additional Public Prosecutor submitted that the First Information Report was registered in the year 1986 and P.R.C. was numbered in the year 1993 as P.R.C.No.15 OF 1993 on the file of the learned Judicial Magistrate, Krishnagiri, and due to bifurcation of the District, the same was transferred to the learned Judicial Magistrate, Poochampalli, in P.R.C.No.16 of 2000. It is also submitted by the learned Additional Public Prosecutor that the records in respect of this case were not available and as such the learned Magistrate was directing the reconstruction of the documents for the purpose of conducting trial.

5. I have carefully considered the rival contentions put forward by either side and also perused the entire materials available on record.

6. This is an unfortunate case, wherein, the First Information Report was registered against the petitioner as early as on 04.09.1986 for the alleged offences under Section 4(1)(A) r/w Sections 7(1)(c) and 14(A) of the Tamil Nadu Prohibition Act. Thereafter, in the year 1993, the Investigating agency said to have completed the investigation and filed the final report and the same was taken in P.R.C.No.15 of 1993 on the file of the learned Judicial Magistrate, Krishnagiri and due to bifurcation of the District the case was transferred to the learned Judicial Magistrate, Poochampalli, and renumbered as P.R.C.No.16 of 2000. It is also seen from the materials available on record that the

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case was simply adjourned periodically necessitating the petitioner to appear for all the hearings right from the year 1994 onwards, but unfortunately, till date there is absolutely no progress at all and not even the charge is framed in this case.

7. This Court is surprised to note that only now after a period of more than a decade the learned Magistrate directed the authorities concerned to reconstruct the documents for the purpose of trial in this case. The materials available on record does not disclose that the documents and records relating to the case were available for re-construction. However, this Court is of the considered view that allowing the proceedings to continue against the petitioner after a long period, viz., more than two decades would amount to clear case of abuse of process of law.

8. The Hon'ble Supreme Court has held in MOTI LAL SARAF V. STATE OF JAMMU & KASHMIR reported in IV (2006) CCR 141 (SC) that,

> "49. It is the bounden duty of the Court and the prosecution to prevent unreasonable delay.
>
> 50. The purpose of right to a speedy trial is intended to avoid oppression and prevent delay by imposing on the Courts and on the prosecution an obligation to proceed with reasonable dispatch.
>
> 51. In order to make the administration of criminal justice effective, vibrant and meaningful, the Union of India, the State Governments, and all concerned authorities must take necessary steps immediately so that the important constitutional right of the accused of a speedy trial does not remain only on papers or is a mere formality.
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> 52. In the instant case not a single witness has been examined by the prosecution in the last twenty six years without there being any lapse on behalf of the appellant. Permitting the State to continue with the prosecution and trial any further would be total abuse of the process of law. Consequently, the Criminal proceedings are quashed".

9. The principle of law laid down by the Apex Court in the decision cited supra is squarrely applicable to the instant case as in this case, the First Information Report was registered as early as in the year 1986 and the final report was filed as early as in the year 1993 and till date there is absolutely no progress and added to that even the records of the case were not available and as such the proceedings initiated against the petitioner pending in P.R.C.No.16 of 2000 on the file of the

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learned Judicial Magistrate, Poochampalli, is liable to be quashed . Accordingly, the entire proceedings is quashed. In view of allowing this petition, the connected Miscellaneous Petitions are closed.
Gg

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The District Munsif cum Judicial Magistrate, Poochampalli

2. - do - Thro The Chief Judicial Magistrate, Krishnagiri, Dharmapuri District

3. The Inspector of Police,
   Prohibition & Enforcement Wing,
   Krishnagiri District.

4. The Public Prosecutor,
   High Court, Madras.

+ one cc to M/s. R. Gopinath, Advocate sr no. 1270

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